

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In Re:

Derek Allen Watson and Megan Melissa  
Watson,

Debtors.

Case No. 22-11270-MLB

Chapter 13

**WASHINGTON FEDERAL'S REPLY IN  
SUPPORT OF MOTION FOR RELIEF  
FROM AUTOMATIC STAY OR IN THE  
ALTERNATIVE AN ORDER REQUIRING  
ADEQUATE PROTECTION PAYMENTS**

Secured creditor Washington Federal ("WaFd") hereby submits the following Reply in Support of its Motion for Relief from Automatic Stay or in the Alternative an Order Requiring Adequate Protection Payments ("MFR") (Dkt. No. 29) filed by WaFd in the current matter on September 26, 2022. This pleading is being submitted in Reply to the Chapter 13 Trustee's and Debtors Derek Allen Watson and Megan Melissa Watson's Objections (Dkt. Nos. 45, 47).

**I. INTRODUCTION**

Debtors Derek Allen Watson and Megan Melissa Watson (collectively "Debtors") have merely made claims that the subject property located 17520 Marine Drive, Stanwood, {100047/002330/00649676-3 } LAGERLOF LLP

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701 PIKE STREET, SUITE 1560  
SEATTLE, WA 98101  
PHONE: 206-492-2300

1 Washington (the “Property”) is valued at \$1,200,000 or more. Debtors filed their Bankruptcy  
2 Petition on August 4, 2022. Dkt. No. 1. Now, more than two and a half months later, Debtors  
3 seek to finally provide their own appraisal for the Property. Additionally, their pre-  
4 confirmation payments are late. WaFd’s interest remains inadequately protected and Debtors’  
5 outstanding pre-confirmation payments constitute cause to lift the automatic stay. Accordingly,  
6 the automatic stay in this matter should be lifted for the Property so that WaFd may seek state  
7 law remedies and foreclose.

8 Debtors’ total amount owed to WaFd is \$771,466.28 with arrears of \$176,772.91. If the  
9 Court nevertheless wishes to consider Debtors’ promised appraisal, WaFd respectfully requests  
10 that the ruling on WaFd’s MFR be postponed until Debtors’ promised appraisal is produced.  
11 Should the appraisal provide a value for the Property, minus estimated selling costs<sup>1</sup>, equal to  
12 or less than the amount owed to WaFd, the MFR should be granted.

## 14 II. REPLY

### 15 A. WaFd’s Interest Remains Inadequately Protected

16 Debtors have claimed the Property *could be* worth \$1,200,000 or more. Dkt. No. 45, p.  
17 2:6-8. No support for this figure has been provided. Indeed in their sworn bankruptcy petition  
18 they affirmed that they did not know the value was. Dkt. No. 25 (Sch. A, p.1). Conversely,  
19 WaFd has submitted a Declaration from David Huynh that the Property’s estimated value is  
20 \$819,000. Dkt. No. 30, ¶ 5. Furthermore, after estimated selling costs, the estimated net  
21 proceeds from the sale of the Property would be \$759, 571.80. *Id.* at ¶ 6. This is less than the  
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25 <sup>1</sup> Estimated selling costs as described in paragraph 6 of the Declaration of David Huynh filed by WaFd in this  
bankruptcy matter on September 26, 2022 (Dkt. No. 30).  
{100047/002330/00649676-3 }

1 total amount of \$771,466.28 Debtors owe to WaFd. Proof of Claim<sup>2</sup>, p. 4. Debtors and the  
2 Trustee provide no evidence to contradict or even cast doubt on Mr. Huynh's opinions. The  
3 Court should consider the evidence that has been timely submitted rather than Debtors'  
4 baseless claim of a \$1,200,000 valuation. Debtors' claim to a \$1,200,000 valuation for the  
5 Property is made further suspect by the fact that the Property's condition has deteriorated, has  
6 become "uninhabitable", and Debtors have not occupied the Property since December 16,  
7 2021. Dkt. No. 31, ¶ 2; Dkt. No. 31, Ex. 1, p. 8<sup>3</sup>; see also Dkt. No. 30, ¶ 3. Debtors and Trustee  
8 have failed to address these facts entirely.

9 Debtors have merely submitted a Declaration claiming that an appraisal letter is  
10 forthcoming on October 21, 2022. Dkt. No. 47-1, ¶ 6. This promised appraisal, for the Property  
11 they claim is essential to effective reorganization<sup>4</sup>, comes more than two and a half months  
12 after they filed their Petition on August 4, 2022. Accordingly, the Court should consider any  
13 forthcoming appraisal untimely and disregard it.  
14

15 However, should the Court nevertheless decide that Debtors' forthcoming appraisal  
16 warrants consideration, WaFd respectfully requests that a ruling on its MFR be postponed until  
17 Debtors' appraisal is produced. If Debtors' appraisal provides a valuation of the Property  
18 minus estimated selling costs that is less than or equal to the amount Debtors owe to WaFd, the  
19 MFR should be granted.

20 **B. Debtors' Pre-Confirmation Payments Are Untimely**

21 Debtors' Bankruptcy Petition was filed on August 4, 2022. Dkt. No. 1. Pursuant to 11  
22 U.S.C. § 1326(a)(1)(A), Debtors were required to begin making payments 30 days later on  
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24 <sup>2</sup> Proof of Claim filed by WaFd on September 12, 2022.

25 <sup>3</sup> See Lines 16-25.

<sup>4</sup> See Dkt. No. 47, p. 2:13-14.  
{100047/002330/00649676-3 }

1 September 3, 2022. Due to the extensions granted by the Court for Debtors to file their Plan  
2 (Dkt. Nos. 16, 23), Debtors filed their plan on September 7, 2022. Dkt. No. 24. Debtors should  
3 have at least made payment on that day and again on October 7, 2022. Debtors' first payment  
4 to the Trustee was on October 14, 2022. Dkt. No. 47, **Ex. A**.

5 In addition to Debtors' late payment, one payment remains outstanding contrary to  
6 Debtors' claim that they have made their plan payments. See Dkt. No. 47, p. 2:5-6. They have  
7 made one and only one pre-confirmation plan payment on a bankruptcy petition filed almost  
8 three months ago. Even with their delayed plan filing, they sill should have made at least two  
9 payments by now. That they have no and indicate intention of immediately coming current on  
10 their payments further justifies relief from stay. Debtors' failure to make **all** their payments  
11 constitutes cause to lift the automatic stay.

### 12 **III. CONCLUSION**

13  
14 WaFd's interest in the Property remains inadequately protected because Debtors' claim  
15 to the Property's valuation is unsubstantiated and any forthcoming appraisal to be produced by  
16 Debtors is untimely and should be disregarded. Furthermore, Debtors' have failed to make all  
17 necessary pre-confirmation payments to the Trustee constituting cause to lift the automatic  
18 stay. Accordingly, WaFd's MFR should be granted.

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1           Should the Court decide Debtors' forthcoming appraisal warrants consideration, the  
2 ruling on WaFd's MFR should be postponed until it is produced. If Debtors' appraisal provides  
3 a valuation of the Property minus estimated selling costs that is less than or equal to the amount  
4 Debtors owe to WaFd, the MFR should be granted.

5  
6 Dated: October 21, 2022

**LAGERLOF LLP**

*s/ Justin L. Jaena*

Justin L. Jaena, WSBA No. 51495

701 Pike Street, Ste 1560

Seattle, WA 98101

Phone: 206-492-2300

Email: [jjjena@lagerlof.com](mailto:jjjena@lagerlof.com)

*Counsel for Washington Federal*

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**DECLARATION OF SERVICE**

I hereby declare under penalty of perjury of the laws of the State of California and the United States of America that on this 21<sup>st</sup> day of October 2022, I caused to be delivered a copy of the Reply in Support of Motion for Relief from Automatic Stay or in the Alternative an Order Requiring Adequate Protection Payment to be served to all parties registered on ECF at their respective ECR registered e-mail addresses, including:

Jacob DeGraaff, WSBA No. 36713  
*Attorney for Derek and Megan Watson*

Jason Wilson-Aguilar, WSBA No. 33582  
*Attorney for Chapter 13 Trustee*

Signed this 21<sup>st</sup> day of October 2022 at Pasadena, California.

s/ Mikki McCleery  
Mikki McCleery, Paralegal  
Lagerlof LLP

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